

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JADE ALEXIS LONG and GARY
RAYMOND GOBLE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RENEE LONG,

Respondent-Appellant.

UNPUBLISHED
November 29, 2007

No. 278874
Ingham Circuit Court
Family Division
LC No. 00-066236-NA

Before: Schuette, P.J., and Borrello and Gleicher, JJ.

PER CURIAM.

Respondent-appellant, the mother of the involved minor children, appeals as of right a circuit court order terminating her parental rights pursuant to MCL 712A.19b(3)(j) [a reasonable likelihood exists, based on the parent's conduct or capacity, that the child will suffer harm if returned to the parent's home]. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

I. Facts and Proceedings

Respondent gave birth to her daughter, Jade, in January 2005. Jade's meconium tested positive for marijuana, and Child Protective Services (CPS) initiated an investigation. Respondent, aged 17 at the time of Jade's birth, admitted that she smoked marijuana during her pregnancy. CPS provided services, and Jade remained in respondent's custody.

In September 2005, respondent brought Jade to an emergency room because Jade could not use her right arm. A physician determined that Jade had a healed rib fracture and a recent fracture of her shoulder. The police arrested Anthony Goble, respondent's boyfriend, and charged him with first-degree child abuse. In November 2005, the Department of Human Services (DHS) filed a petition seeking temporary custody of Jade. The petition alleged that respondent resided with Anthony Goble and was pregnant with his child. The circuit court authorized the petition and placed Jade in the custody of her maternal grandmother. The circuit court ordered that respondent undergo drug testing and have no contact with Goble.

Respondent gave birth to Gary on March 4, 2006, and her urine tested positive for marijuana that day. On March 8, 2006, the DHS filed a petition seeking custody of Gary. According to the petition, respondent continued to have frequent contact with Goble, in violation of the circuit court's order. The circuit court assumed jurisdiction over Gary, and placed him in foster care.¹

In June 2006, the circuit court found respondent in criminal contempt of court because her urine again tested positive for marijuana. The circuit court suspended her sentence pending successful completion of a substance abuse program and maintenance of drug free status. Respondent made progress toward the achievement of these goals, and in December 2006 the circuit court allowed her to regain custody of her two children under DHS supervision. The court continued the prior order prohibiting contact with Anthony Goble.

On April 18, 2007, petitioner filed a permanent custody petition seeking termination of respondent's parental rights. The petition averred that Goble resided in respondent's home, and that respondent's home was "cluttered" and dirty.

At the termination hearing conducted on June 15, 2007, a caseworker testified that on April 16, 2007, she was "on-call" for the DHS. At approximately 6:30 p.m., a caller reported that Anthony Goble was present in respondent's home. The caseworker stated that she asked the Ingham County Sheriff to perform an evening "welfare check" on the minor children. A deputy sheriff testified that she arrived at respondent's home at 10:27 p.m. Respondent answered the door and allowed the deputy access to her apartment. The deputy testified that she asked respondent whether Goble was there, and respondent replied that he was not. Respondent gave the deputy permission to search the premises. The deputy recounted that she found Goble under respondent's bed, wearing only his boxer shorts. The deputy arrested Goble, and took him to jail. Later, the deputy returned to respondent's apartment, and asked respondent why she allowed Goble to be inside her home. According to the deputy, respondent replied that she "still loved" Goble and "wanted to be with him."

Goble testified that he went to respondent's apartment between 10:30 p.m. and 11:00 p.m. on April 16, 2007 because he was angry with respondent's mother. According to Goble, he entered through the unlocked apartment door and went to the living room. Goble recalled that he shouted at respondent and then "walked into her bedroom." He testified that he sat on the bed, "and [the] next thing I knew, the police were there." Goble admitted that when he heard the police arrive, he crawled under respondent's bed. He claimed that he was fully clothed when the deputy discovered him, and denied that he lived in respondent's home.

Respondent testified that Goble entered her apartment without her permission while she slept on the couch. She stated that Goble yelled at her, "was really upset," and looked "really angry." Respondent claimed that she advised Goble that he "shouldn't be here," but explained

¹ Anthony Goble, Gary's father, voluntarily relinquished his parental rights to Gary in December 2006.

that she could not call the police because her phone was “out of minutes.” Respondent testified that Goble had “gone down the hallway” when she heard the police arrive. She allowed the deputy to enter, and “sat down on the couch and waited.” According to respondent, Goble was in her apartment for 10 or 12 minutes before the deputy arrived.

Respondent denied that Goble lived with her, but admitted calling him several months earlier “to officially end the relationship.” She conceded that for more than a year, she had remained “in denial” about the fact that Goble physically abused Jade. Respondent admitted that she smoked marijuana “a couple times throughout the past couple months,” in violation of the circuit court’s order. She testified that she planned to finish high school and move to another town to distance herself from Goble, and denied telling the deputy that she loved Goble or wanted to have a relationship with him.

At the conclusion of the hearing, the circuit court terminated respondent’s parental rights pursuant to MCL 712A.19b(3)(j), finding a reasonable likelihood that the children would be harmed if they were returned to respondent’s home. The circuit court reasoned as follows:

... [J]ust four months after I returned both these children to mother’s care, Mr. Goble was found in the respondent’s home. Now, I’ve heard different versions of this story. I have heard slight nuances, changes, in the story over time. The Court is clearly convinced that there’s a reasonable likelihood, based upon the conduct and capacity of the mother in this case, that the children would be harmed if returned to her care. I don’t believe mother has the capacity to protect the minor children from Mr. Goble or anyone like Mr. Goble. The Court is clearly convinced that Ms. Long told the responding officer that Mr. Goble was not there. The officer came to the front door, I’m here to check on your children; is Mr. Goble here? Mom responds, he’s not here. Even if I was to take mother’s version of events, which is she said nothing, that is inconsistent with a mature mother who has the interest of her children at heart. When someone who enters her apartment in the way that she describes, that fact that she didn’t, once he runs to the back room or whatever, pick up these kids and run screaming from the building, indicates to me that she does not understand the level of harm that Mr. Goble presents. The fact that she did not say to the police officer as she entered the apartment, thank goodness you’re here, he’s in the back, go get him. That’s what a mother would do that was interested in protecting her children from someone who has the capacity, the capacity to manhandle a nine-month-old infant.

Respondent now appeals as of right.

II. Issues Presented and Analysis

Respondent contends that insufficient evidence supported the circuit court’s reliance on subsection (3)(j) as a basis for terminating her parental rights. This Court reviews for clear error a circuit court’s finding that a ground for termination has been established by clear and convincing evidence “and, where appropriate, the court’s decision regarding the child’s best interest.” *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005) (internal quotation omitted); see also MCR 3.977(J). “A trial court’s decision to terminate parental rights is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire evidence

is left with the definite and firm conviction that a mistake had been made.” *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005).

The record clearly and convincingly establishes that respondent allowed Goble to remain inside her apartment on April 16, 2007, in violation of the circuit court’s no contact order. Although Goble was “yelling” and “very angry” when he entered the apartment, respondent did not attempt to call the police, and did not inform the police of Goble’s presence when they arrived. In addition to the events of April 16, 2007, the record establishes that respondent maintained a close relationship with Goble for at least nine months after he severely physically abused her infant daughter, and that her emotional attachment to Goble continued at least until November 2006. The circuit court correctly observed that respondent lacked the ability to understand and appreciate the danger Goble posed to her children. This evidence clearly and convincingly supports the circuit court’s finding of a reasonable likelihood that the children would suffer harm if placed in respondent’s custody.

Respondent also contends that the termination of her rights contravened her children’s best interests. When a ground for termination under MCL 712A.19b(3) is established, “the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made, unless the court finds that termination of parental rights to the child is clearly not in the child’s best interests.” MCL 712A.19b(5).

The evidence presented does not support a finding that terminating respondent’s parental rights would clearly contravene the best interests of her children. Jade spent most of her life in the custody of her father or another relative. Gary, aged fifteen months at the time of the termination hearing, lived with respondent for only four months before the circuit court terminated her parental rights. We find no clear error in the circuit court’s determination that these facts, together with respondent’s immaturity and lack of common sense, as demonstrated by her continued interactions with Goble, established that termination of respondent’s parental rights was consistent with the children’s best interests.

Affirmed.

/s/ Bill Schuette
/s/ Stephen L. Borrello
/s/ Elizabeth L. Gleicher